

LEGISLATIVE RESEARCH COMMISSION

TEACHER TENURE LAW



**REPORT TO THE
1983 GENERAL ASSEMBLY
OF NORTH CAROLINA**

LEGISLATIVE RESEARCH COMMISSION

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OF NORTH CAROLINA**

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TABLE OF CONTENTS

	<u>Page</u>
LETTER OF TRANSMITTAL.....	III
PREFACE.....	1
COMMITTEE PROCEEDINGS AND RECOMMENDATIONS.....	3

APPENDICES

A. Legislative Research Commission Membership List	A-1
Committee Membership List.....	A-2
B. Authorizing Resolution 61, Senate Joint Resolution 621...	B-1
C. Persons Appearing Before the Committee.....	C-1
Persons Attending Committee Meetings	C-2
D. Proposed Legislative Changes in the Act.....	D-1
E. Proposal presented by NC School Boards Association.....	E-1

STATE OF NORTH CAROLINA
LEGISLATIVE RESEARCH COMMISSION
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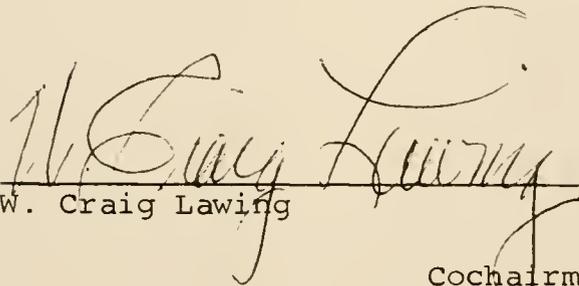
January 12, 1983

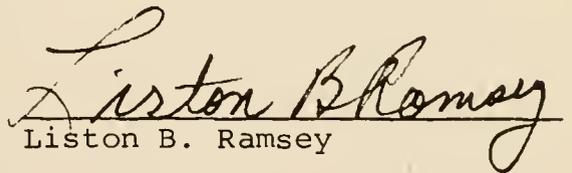
TO THE MEMBERS OF THE 1983 GENERAL ASSEMBLY:

The Legislative Research Commission herewith reports to the 1983 General Assembly on the Teacher Tenure Law. The report is made pursuant to Resolution 61 of the 1981 General Assembly.

This report was prepared by the Legislative Research Commission's Teacher Tenure Law Study Committee and is transmitted by the Legislative Research Commission for your consideration.

Respectfully submitted,


W. Craig Lawing


Liston B. Ramsey

Cochairmen
Legislative Research Commission

PREFACE

The Legislative Research Commission, established by Article 6B of Chapter 120 of the General Statutes, is a general purpose study group. The Commission is cochaired by the Speaker of the House and the President Pro Tempore of the Senate and has ten additional members, five appointed from each house of the General Assembly. Among the Commission's duties is that of making or causing to be made, upon the direction of the General Assembly or either house thereof, "such studies of and investigations into governmental agencies and institutions and matters of public policy as will aid the General Assembly in performing its duties in the most efficient and effective manner" (G.S. 120-30.17(1)).

At the direction of the 1981 General Assembly, the Legislative Research Commission has undertaken studies of numerous subjects. These studies were grouped into broad categories, and each member of the Commission was given responsibility for one category of study. The Cochairmen of the Legislative Research Commission, under the authority of General Statutes 120-30.10(b) and (c), appointed committees consisting of members of the General Assembly and the public to conduct the studies. Cochairmen, one from each house of the General Assembly, were designated for each committee.

The study of the Teacher Tenure Law of North Carolina was authorized by Resolution 61 of the 1981 Session Laws.

The Legislative Research Commission grouped this study in its education area under the direction of Representative Lura Tally. The Cochairmen of the study committee established by the Research Commission are Senator Kenneth C. Royall, Jr. and Representative Aaron E. Fussell. The full membership of the committee is listed in Appendix A of this report. Resolution 61 authorizing the study and Senate Joint Resolution 621 which the committee was authorized to consider in determining the scope of the study, are attached as Appendix B.

COMMITTEE PROCEEDINGS AND RECOMMENDATIONS

The Legislative Research Commission's Teacher Tenure Law Study Committee met three times. At the first two meetings, the committee heard from a number of persons representing those involved in the State's public elementary and secondary schools, including representatives of local boards of education, school administrators at both central office and school levels, and teachers. The committee also heard from representatives of the Personnel Administration Commission for Public School Employees, established by G.S. 115C-327 to advise the Governor and the State Board of Education in regard to personnel administration practices and policies for public school employees. Finally, the committee heard from attorneys involved in applying, interpreting and litigating North Carolina's Fair Employment and Dismissal (Tenure) Act, G. S. 115C-325. A list of persons appearing before the committee is contained in Appendix C.

After listening to the various speakers and suggestions for improvement of the act, the members of the committee concluded that much controversy continues to surround the policies incorporated into the act; but that there is some agreement on the need to revise and clarify certain provisions of the act in order to make it easier and less costly to administer. Appendix D contains legislation to incorporate those changes in the act on which there is agreement among those most involved with its legal application.

The Committee recommends approval of this legislation to the General Assembly. Appendix E contains a proposal presented by the North Carolina School Boards Association on which the Committee took no action and makes no recommendation.

APPENDIX A

STATE OF NORTH CAROLINA
LEGISLATIVE RESEARCH COMMISSION
STATE LEGISLATIVE BUILDING
RALEIGH 27611



MEMBERSHIP

1981-1983

House Speaker Liston B. Ramsey Cochairman	Senate President Pro Tempore W. Craig Lawing, Cochairman
Representative Chris S. Barker, Jr.	Senator Henson P. Barnes
Representative John T. Church	Senator Carolyn Mathis
Representative Gordon H. Greenwood	Senator William D. Mills
Representative John J. Hunt	Senator Russell Walker
Representative Lura S. Tally	Senator Robert W. Wynne

LEGISLATIVE RESEARCH COMMISSION'S COMMITTEE

ON TEACHER TENURE LAW

	<u>PHONE NUMBERS</u>
Senator Kenneth C. Royall, Jr., Cochairman P. O. Box 8766 Forest Hills Station Durham, N. C. 27707	919- 489-9191
Representative Aaron E. Fussell, Co-chairman 1201 Briar Patch Lane Raleigh, N. C. 27609	919- 834-7666 or 733-5902
Senator T. Cass Ballenger Plastic Packaging, Inc. Hickory, N. C. 28601	704- 328-2466
Mrs. Nancy B. Davis Oakhurst Elementary School 4511 Monroe Road Charlotte, N. C. 28211	704- 536-1707
Senator Harold W. Hardison P. O. Box 128 Deep Run, N. C. 28525	919- 568-3131
Ms. Catherine C. Lewis Route 5, Box 325 Greenville, N. C. 27834	
Ms. Catherine McRacken 116 North Vance Street Red Springs, N. C. 28377	919- 843-4338
Rep. Harold G. Brubaker Route 3, Box 200 Asheboro, N. C. 27203	919- 629-4202
Rep. Byron Haworth 902 Fairway Drive High Point, N. C. 27262	919- 886-8522
Rep. Parks Helms 4901 Hadrian Way Charlotte, N. C. 28211	704- 375-3781

TEACHER TENURE LAW MEMBERSHIP

PHONE NUMBERS

Rep. John M. Jordan
Saxaphaw, N. C. 27340

919- 376-3121

Rep. Ed N. Warren
227 Country Club Drive
Greenville, North Carolina 27834

919- 758-1543

Rep. Lura Tally (LRC Member)
3100 Tallywood Drive
Fayetteville, N. C. 28303

919- 484-4868

APPENDIX B

GENERAL ASSEMBLY OF NORTH CAROLINA
EXTRA SESSION 1982
RATIFIED BILL

RESOLUTION 61

HOUSE JOINT RESOLUTION 1292

A JOINT RESOLUTION AUTHORIZING STUDIES BY THE LEGISLATIVE RESEARCH COMMISSION.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The Legislative Research Commission may study the topics listed below. Listed with each topic is the 1981 bill or resolution that originally proposed the study and the name of the sponsor. The Commission may consider the original bill or resolution in determining the nature, scope and aspects of the study. The topics are:

- (1) Continuation of study of revenue laws (H.J.R. 15 -- Lilley).
- (2) Continuation of study on problems of aging (H.J.R. 48 -- Messer/S.J.R. 37 -- Gray).
- (3) Day care (H.J.R. 223 -- Brennan).
- (4) Civil rights compliance of non-State institutions receiving State funds (H.J.R. 344 -- Spaulding).
- (5) Social services and public assistance (H.B. 393 -- P. Hunt).
- (6) The need for new health occupational licensing boards (H.B. 477 -- Lancaster/S.B. 285 -- Jenkins).
- (7) Matters related to public education, including:

- a. The feasibility of making the 12th grade optional in the public schools (H.J.R. 890 -- Tally).
 - b. Continue study of public school food service (H.J.R. 948 -- Brennan).
 - c. The teacher tenure law (S.J.R. 621 -- Royall).
 - d. Providing teachers with duty-free periods (S.J.R. 697 -- Speed).
 - e. Continuation of study regarding purchase of buses in lieu of contract transportation, and other school bus transportation matters (no 1981 resolution).
- (8) Campaign financing and reporting (H.J.R. 975 -- D. Clark).
- (9) State's interests in railroad companies and railroad operations (H.B. 1069 -- J. Hunt).
- (10) Matters related to insurance, including:
- a. Insurance regulation (H.B. 1071 as amended -- Seymour), including the feasibility of establishing within the Department of Insurance a risk and rate equity board.
 - b. How the State should cover risks of liability for personal injury and property damage (H.J.R. 1198 -- Seymour).
 - c. Credit insurance (H.J.R. 1328 -- Barnes).
- (11) Matters related to public property, including:
- a. Development of a policy on State office building construction (H.J.R. 1090 -- Nye).
 - b. The potential uses and benefits of arbitration to resolve disputes under State construction and procurement contracts (H.J.R. 1292 -- Adams).

c. The bonding requirements on small contractors bidding on governmental projects (H.J.R. 1301 -- Nye).

d. Continue study of the design, construction and inspection of public facilities (S.J.R. 143 -- Clarke).

e. Whether the leasing of State land should be by competitive bidding (S.J.R. 178 -- Swain).

(12) Allocation formula for State funding of public library systems (H.J.R. 1166 -- Burnley).

(13) Economic, social and legal problems and needs of women (H.R. 1238 -- Adams).

(14) Beverage container regulation (H.J.R. 1298 -- Diamond).

(15) Scientific and technical training equipment needs in institutions of higher education (H.J.R. 1314 -- Fulcher).

(16) Role of the State with respect to migrant farmworkers (H.J.R. 1315 -- Fulcher).

(17) Existing State and local programs for the inspection of milk and milk products (H.J.R. 1353 -- James).

(18) Laws authorizing towing, removing or storage of motor vehicles (H.J.R. 1360 -- Lancaster).

(19) Annexation laws (S.J.R. 4 -- Lawing).

(20) Laws concerning obscenity (House Committee Substitute for S.B. 295).

(21) The feasibility of consolidating the State computer systems (S.J.R. 349 -- Alford/H.J.R. 524 -- Plyler).

(22) Laws pertaining to the taxation of alcoholic beverages and the designation of revenues for alcoholism

education, rehabilitation and research (S.J.R. 497 -- Gray).

(23) Regional offices operated by State agencies (S.J.R. 519 -- Noble).

(24) Continue study of laws of evidence (S.J.R. 698 -- Barnes).

(25) Continue study of ownership of land in North Carolina by aliens and alien corporations (S.J.R. 714 -- White).

(26) Rules and regulations pertaining to the Coastal Area Management Act (S.J.R. 724 -- Daniels).

(27) Transfer of Forestry and Soil and Water from Department of Natural Resources and Community Development to Department of Agriculture (H.B. 1237 -- Taylor).

(28) Continue sports arena study (H.J.R. 1334 -- Barbee).

(29) State investment and maximum earning productivity of all public funds (H.J.R. 1375 -- Beard).

Sec. 2. For each of the topics the Legislative Research Commission decides to study, the Commission may report its findings, together with any recommended legislation, to the 1982 Session of the General Assembly or to the 1983 General Assembly, or the Commission may make an interim report to the 1982 Session and a final report to the 1983 General Assembly.

Sec. 3. The Legislative Research Commission or any study committee thereof, in the discharge of its study of insurance regulation under Section 1(10)a. of this act, may secure information and data under the provisions of G.S. 120-19. The powers contained in the provisions of G.S. 120-19.1 through

G.S. 120-19.4 shall apply to the proceedings of the Commission or any study committee thereof in the discharge of said study. The Commission or any study committee thereof, while in the discharge of said study, is authorized to hold executive sessions in accordance with G.S. 143-318.11(b) as though it were a committee of the General Assembly.

Sec. 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of July, 1981.

JAMES C. GREEN

James C. Green

President of the Senate

LISTON B. RAMSEY

Liston B. Ramsey

Speaker of the House of Representatives

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1981

SENATE JOINT RESOLUTION 621

Sponsors: Senators Royall, Rauch, Hardison, Laving.

Referred to: Rules and Operation of the Senate.

May 29, 1981

1 A JOINT RESOLUTION DIRECTING THE LEGISLATIVE RESEARCH COMMISSION
2 TO STUDY THE TEACHER TENURE LAW.

3 Whereas, the 1971 General Assembly enacted the teacher
4 tenure law, codified now as G.S. 115-142 and codified as G.S.
5 115C-325 beginning July 1, 1981; and

6 Whereas, since the enactment of the tenure law the
7 affected parties have raised many questions concerning the scope
8 and interpretation of the law and the need to amend it; and

9 Whereas, there is a need to identify and study the
10 problems that have arisen under the law; and

11 Whereas, in 1980 the General Assembly created the
12 Personnel Administration Commission for Public School Employees
13 to provide advice and recommendations to the Governor and the
14 State Board of Education in regard to personnel administration
15 practices and policies for the public schools;

16 Now, therefore, be it resolved by the Senate, the House of
17 Representatives concurring:

18 Section 1. The Legislative Research Commission shall
19 study the teacher tenure law to determine what amendments are
20 needed for the effective and efficient administration of the
21

1 public school system and for protection of the rights of public
2 school employees. The study shall include the procedure for
3 achieving "career status" as an administrator or supervisor, a
4 fixed term career contract for tenured employees, the grounds for
5 demotion or dismissal of career employees, and the procedures for
6 demotion and dismissal.

7 Sec. 2. In studying this subject the Legislative
8 Research Commission may request the assistance of the Personnel
9 Administration Commission for Public School Employees, as an
10 advisory subcommittee or in some other capacity. While assisting
11 in this study at the request of the Legislative Research
12 Commission, members of the Personnel Administration Commission
13 for Public School Employees shall be considered to be acting in
14 the performance of their duties for purposes of receiving per
15 diem and reimbursement for travel and subsistence expenses.

16 Sec. 3. The Legislative Services Commission shall
17 provide professional and other staff assistance for this study.

18 Sec. 4. The Legislative Research Commission shall
19 report to the 1982 Session of the 1981 General Assembly. The
20 report shall include any legislation necessary to implement the
21 recommendations of the Commission.

22 Sec. 5. This resolution is effective upon ratification.
23
24
25
26
27
28

APPENDIX C

PERSONS APPEARING BEFORE THE COMMITTEE

December 8, 1981

Mr. Robert B. Lincks, Chairman, N. C. Personnel
Administration Commission

Mr. Gene Causby, Executive Director, N. C. School
Boards Association

December 20, 1982

Mr. Joe Bost, N. C. Principal/Assistant Principal
Association

Ms. Loretta Martin, President, North Carolina Association
of Educators

Mr. Lenwood Padgett, Division of Principals, NCAE
Mr. Jim Fuller, Attorney, NCAE

Mr. George T. Rogister, Education Law Committee of N. C.
Bar Association

Mr. Douglas Punger, N. C. Council of School Board
Attorneys

Ms. Virginia Doran, State Director, N. C. Federation of
Teachers

Mr. E. A. Britt, AFL-CIO

Mr. Raymond Sarbaugh, Executive Director, N. C. Associa-
tion of School Administrators

Mr. John Fries, Chairman, Principals' Commission, NCASA
Mr. Michael D. Priddy, Supervisors' Commission, NCASA
Dr. W. O. Fields, Jr., Superintendents' Commission, NCASA

Mr. Larry Poore, Education Advisor to Governor James B.
Hunt, Jr.

Name of Committee

Date

VISITORS: Please sign below and return to secretary.

NAME	FIRM OR STATE AGENCY AND ADDRESS
Edward Allen	NCAE
Sam Riggins	NCAE
Jim Guth	NCSU and UNC-CH
John Wilson	NCAE
Don Morrow	NCAE
Brook Whitehead	Present Commission on Public Schools
Linda ...	"
Linda ...	"
Martha Hays	AEP
Bob Boyd	S.O.P.I.
Betty Harrington	Member Junior League
Patricia Womack	High Point Junior League
Terry Aubert	High Point Junior League
Loni Funk	NC OYA
Jan Haley	NCSBA
Stanley Dail	NCAE - Principals
Lynn and Sarbaugh	NC Assoc. of School Administrators
Tom S. Davis	State Board of Education
Virginia Dreyer	N.C. Federation of Teachers

December 8, 1981

Teacher Tenure Study Committee

Persons present

NAME	ORGANIZATION
JOHN WILSON	NCAE
Don Morrow	NCAE
Henry Womack	High Point Junior League
Terry Aubert	High Point Jr. League
Billy Harrington	High Point Jr. League
Jim GUTH	NCSU and UNC-CH
Gene Causby	NCSBA
Tom Halene	NCSBA
Angie T. [unclear]	NCSBA
Wiley [unclear]	The Human Resource, Raleigh
James I. Bolden	Personnel Commission
[unclear]	Personnel Commission
[unclear]	[unclear]
[unclear]	[unclear]
Bob Boyd	SDPI
Robert Lucks	CHAIRMAN - PERSONNEL Com
Frank Poffitt	Member, "
[unclear]	Member, "
Thomas Satter	NCP/APA, Principal
[unclear]	NCP/APA, Principal
Linda Winner	Vice-Chairman - Personnel Com
Hilda A. Highfill	Fiscal Resource Division
[unclear]	Office of [unclear]

NAME

ORGANIZATION

Don Hancock
Betty E. West

N. C. A. S. A.
N. C. A. S. A.

Name of Committee

Date

VISITORS: Please sign below and return to secretary.

NAME

FIRM OR STATE AGENCY AND ADDRESS

Mary Johnson
James L. Bolden

News Bureau, Raleigh
~~Personnel~~ Commission

VISITORS: Please sign below and return to secretary.

NAME	FIRM OR STATE AGENCY AND ADDRESS
Bernard Allen	NCAE
Sam Ranzino	NCAE
Walter A. Clement	NCA/JAPA
Joe Post	NCA/JAPA
Klem Keener	NCAE
Loretta Martin	NCAE
Frances Cummings	NCAE
Dorothy S. Fung	210
Jan Kalam	NCSBA
Hazel T. ...	710
Leonard ...	Division of Principals /
John	NCAE
Jim Fuller	Chambers Law Firm (NCAE)
Don Morrell	NCAE
Dean Bell	NCAEA
...	...
Raymond ...	NCAEA
...	NCAE
(over)	

Name of Committee

Date

VISITORS: Please sign below and return to secretary.

NAME	FIRM OR STATE AGENCY AND ADDRESS
Mary Cera (Ed Advisor)	Gov. Office Controller's Office, ST Bldg. 501
Dolan Jones	NCASA Principals Commission
John Jones	NC Association of Classroom Teachers a division of NCAE
Harold Jones	NCAEA - Supt's. Commission
W. F. Jones	NCASA
John S. Hines	N+O
Sherry Johnson	Office of Policy & Planning NCAE
Patricia Jancy	NCAE
Herbert Park	DC ESPAL Durham City Schools Support for new 1982
William Moore	NCASA
Patrick Korman	State Budget
John C. ...	S.B.E. CONTROLLER'S OFFICE
Mustafa E. Korman	NCAE
Mary ...	SDPE
Quanita Lloyd	SDPE
Bob Lloyd	NCSBA
Gene Causby	NCAE
Del Lounge	NCAE
Pamela ...	NCAE
Milton B. Neece	NCAE

Name of Committee

Date

VISITORS: Please sign below and return to secretary.

NAME

FIRM OR STATE AGENCY AND ADDRESS

Michael D. Priddy

NCASA - Supervisors' Commission

E. C. Britt

NC AFL-CIO

Virginia L. Doran

N.C. Federation of Teachers
AFT, AFL-CIO

Craig Webb

WPI

Mary Ann Ryan

AF

MIKE SIMMONS

ORANGE Co. SCHOOLS

Thomas H. Batten

NCP/APP

Royce L. Linn

NCP/APP

Frances M. Cummings

NCAE

Name of Committee

Date

VISITORS: Please sign below and return to secretary.

NAME

FIRM OR STATE AGENCY AND ADDRESS

NAME	FIRM OR STATE AGENCY AND ADDRESS
Sam Ransino	NCAE 700 S. Salisbury St RAL -
Stacy Dail	NCAE "
John News	NCAE "
Bernard Allen	NCAE "
Louisa Martin	NCAE "
Raymond L. Sarbant	NC Assoc. of School Administrators
Mary Jane Rhynne	AP
James R. Barrett	<u>The Charlotte News</u>
Tom Fink	NCPSA
John Halcom	NC SBA
E. M. Spass, Jr	N. C. A Hy Gen. Off.
Gene Causby	NCSBA
Bob Boyd	SDPI
Juanita Floyd	SDPI
dir Perry Hill	St. Adv. Council on Ed. 530 N. W. ...
Gladys Mance	NC-ACT 700 S. Salisbury Raleigh
Don Morrow	NCAE
anyone	Sho Office

APPENDIX D

SESSION 19 83

INTRODUCED BY:

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY THE PROVISIONS OF THE FAIR EMPLOYMENT AND DISMISSAL ACT.
3 The General Assembly of North Carolina enacts:
4 Section 1. G.S. 115C-325(a)(3) is rewritten to read:
5 "(3) 'Day' means calendar day. In computing any period of time,
6 Rule 6 of the North Carolina Rules of Civil Procedure shall apply."
7 Sec. 2. G.S. 115C-325(a)(4) is amended by deleting the
8 number "30" and substituting the number "60" in the first sentence.
9 Sec. 3. The second, third and fourth sentences of G.S. 115C-
10 325(c)(1) are rewritten to read:
11 "The board shall give him written notice of that decision by
12 June 1 of his third year of employment. If a majority of the
13 board votes to reemploy the teacher, and if it has notified
14 him of the decision, it may not rescind that action but must
15 proceed under the provisions of this section for the demotion
16 or dismissal of a teacher if it decides to terminate his
17 employment."
18 Sec. 4. G.S. 115C-325(d)(2) is rewritten to read:
19 "(2) Whether or not he has previously attained career status
20 as a teacher, a person who has performed the duties of a
21 principal in the school system for three consecutive years
22 or has performed the duties of a supervisor in the school
23 system for three consecutive years shall not be transferred
24 from that position to a lower paying administrative position

1 or to a lower paying non-administrative position without his
2 consent except for the reasons given in G.S. 115C-325(e)(1)
3 and in accordance with the provisions for the dismissal of
4 a career teacher set out in this section. Transfer of a
5 principal or a supervisor is not a transfer to a lower
6 paying position if the principal's or supervisor's salary
7 is maintained at the previous salary amount.

8 When a teacher has performed the duties of supervisor or prin-
9 cipal for three consecutive years, the board, near the end of the
10 third year, shall vote upon his employment for the next school
11 year. The board shall give him written notice of that decision by
12 June 1 of his third year of employment as a supervisor or principal.
13 If a majority of the board votes to reemploy the teacher as a prin-
14 cipal or supervisor, and it has notified him of that decision, it
15 may not rescind that action but must proceed under the provisions
16 of this section. If a majority of the board votes not to reemploy
17 the teacher as a principal or supervisor, he shall retain career
18 status as a teacher if that status was attained prior to assuming
19 the duties of supervisor or principal. A supervisor or principal
20 who has not held that position for three years and whose contract
21 will not be renewed for the next school year shall be notified by
22 June 1 and shall retain career status as a teacher if that status
23 was attained prior to assuming the duties of supervisor or prin-
24 cipal."

25 Sec. 5. G.S. 115C-325(e)(2) is rewritten to read:
26 "(2) Before recommending to a board the dismissal or demotion of
27 the career teacher pursuant to G.S. 115C-325(e)(1)1., the super-
28 intendent shall give written notice to the career teacher by

1 certified mail of his intention to make such recommendation and
2 shall set forth as part of his recommendation the grounds upon
3 which he believes such dismissal is justified. The notice shall
4 include a statement to the effect that if the teacher within 15
5 days after receipt of the notice requests a review, he shall
6 be entitled to have the proposed recommendations of the superin-
7 tendent reviewed by the board. Within the 15-day period after
8 receipt of the notice, the career teacher may file with the super-
9 intendent a written request for a hearing before the board within
10 10 days. If the teacher requests a hearing before the board, the
11 hearing procedures provided in G.S. 115C-325(j) shall be followed.
12 If no request is made within the 15-day period, the superintendent
13 may file his recommendation with the board. If, after considering
14 the recommendation of the superintendent and the evidence adduced
15 at the hearing if there is one, the board concludes that the grounds
16 for the recommendation are true and substantiated by a preponderance
17 of the evidence, the board, if it sees fit, may by resolution order
18 such dismissal. Provisions of this section which permit appointment
19 of, and investigation and review by, a panel of the Professional
20 Review Committee shall not apply to a dismissal or demotion
21 recommended pursuant to G.S. 115C-325(e)(1)1.

22 When a career teacher is dismissed pursuant to G.S. 115C-325
23 (e)(1)1. above, his name shall be placed on a list of available
24 teachers to be maintained by the board. Career teachers whose
25 names are placed on such a list shall have a priority on all positions
26 for which they are qualified which become available in that system for
27 the three consecutive years succeeding their dismissal. However,
28 if the local school administrative unit offers the dismissed

1 teacher a position for which he is certified and he re-
2 fuses it, his name shall be removed from the priority list."

3 Sec. 6. G.S. 115C-325(f) is rewritten to read:

4 "(f) Suspension without pay. -- If a superintendent believes that
5 cause exists for dismissing a probationary or career teacher for
6 any reason specified in G.S. 115C-325(e)(1)a. through G.S. 115C-
7 325(e)(1)j. and that immediate suspension of the teacher is
8 necessary, the superintendent may suspend him without pay and
9 without giving notice and a hearing. Within five days after
10 a suspension under this paragraph, the superintendent shall
11 initiate a dismissal as provided in this section. If it is
12 finally determined that no grounds for dismissal exist, the
13 teacher shall be reinstated immediately and shall be paid
14 for the period of suspension.

15 A teacher recommended for suspension without pay pursuant
16 to G.S. 115C-325(a)(4) may request a hearing before the board.
17 If the teacher requests a hearing before the board, the pro-
18 cedures provided in G.S. 115C-325(j) shall be followed. If
19 no request is made within 15 days, the superintendent may
20 file his recommendation with the board. If, after considering
21 the recommendation of the superintendent and the evidence
22 adduced at the hearing if one is held, the board concludes
23 that the grounds for the recommendation are true and substan-
24 tiated by a preponderance of the evidence, the board, if it
25 sees fit, may by resolution order such suspension. Provisions
26 of this section which permit appointment of, and investigation
27 and review by, a panel of the Professional Review Committee
28 shall not apply to a suspension without pay pursuant to
G.S. 115C-325(a)(4)."

1 Sec. 7. G.S. 115C-325(h)(3) is amended by adding a new sentence
2 following the second sentence to read:

3 "A hearing conducted by the board pursuant to this subdivision
4 shall be conducted pursuant to G.S. 115C-325(j) and (1)."

5 Sec. 8. G.S. 115C-325(i)(2) is amended by adding a new
6 sentence at the end to read:

7 "If the panel holds a hearing, the provisions of G.S.115C-
8 325(j) shall apply."

9 Sec. 9. The second sentence of G.S. 115C-325(i)(4)
10 is rewritten to read:

11 "The report shall contain an outline of the scope of its inves-
12 tigation, its findings as to whether or not the grounds for the
13 recommendation are true and substantiated by a preponderance
14 of the evidence, and a statement of the reasons for its
15 findings."

16 Sec. 10. G.S. 115C-325(i)(5) and (6) are rewritten to read:
17 "(5) Within five days after the superintendent receives the report of
18 the panel, the superintendent shall decide whether or not to submit
19 a written recommendation for dismissal to the board or to drop the
20 charges against the teacher and shall notify the teacher, in writing,
21 of the decision. Within five days after receiving the superintendent's
22 notice of his intent to recommend the teacher's dismissal to the board,
23 the teacher shall decide whether to request a hearing before the board
24 and shall notify the superintendent, in writing, of the decision. If
25 the teacher requests a hearing before the board, the superintendent
26 shall submit his written recommendation to the board with a copy to the
27 teacher within five days after receiving the teacher's request. The
28 superintendent's recommendation shall state the grounds for the recommen-

1 dation and shall be accompanied by a copy of the report of the panel
2 of the Committee.

3 "(6) Within seven days after receiving the superintendent's recom-
4 mendation and before taking any formal action, the board shall set a
5 time and place for the hearing and notify the teacher by certified mail
6 of the date, time and place of the hearing. The time specified shall
7 not be less than seven nor more than 20 days after the board has noti-
8 fied the teacher. If the teacher did not request a hearing, the board
9 may, by resolution, dismiss the teacher. If the teacher can show that
10 his request for a hearing was postmarked within the time provided, his
11 right to a hearing is not forfeited."

12 Sec. 11. G.S. 115C-325(j) is amended by deleting the period at
13 the end of the first sentence and substituting the words "or to any hearing
14 conducted by a board pursuant to G.S. 115C-325(h)(3)." and by adding two
15 new subdivisions to read:

16 "(4) Rules of evidence shall not apply to a hearing conducted
17 pursuant to this act and boards and panels of the Professional
18 Review Committee may give probative effect to evidence that is
19 of a kind commonly relied on by reasonably prudent persons in
20 the conduct of serious affairs.

21 "(5) At least five days before the hearing, the superintendent
22 shall provide to the teacher a list of witnesses the superinten-
23 dent intends to present, a brief statement of the nature of the
24 testimony of each witness and a copy of any documentary evidence
25 he intends to present. At least three days before the hearing,
26 the teacher shall provide to the superintendent a list of wit-
27 nesses the teacher intends to present, a brief statement of
28 the nature of the testimony of each witness and a copy of any

1 documentary evidence he intends to present. Additional
2 witnesses or documentary evidence may not be presented
3 except upon consent of both parties or upon a majority
4 vote of the board or panel."

5 Sec. 12. G.S. 115C-325(k)(2) is amended by adding after the
6 word "substantiated" the words "by a preponderance of the evidence."

7 Sec. 13. G.S. 115C-325(1)(4) is amended by adding a second
8 sentence to read:

9 "The board's decision shall be based on a preponderance
10 of the evidence."

11 Sec. 14. G.S. 115C-325(n) is rewritten to read:

12 "(n) Appeal.-- Any teacher who has been dismissed or demoted
13 pursuant to G.S. 115C-325(e)(2), or pursuant to subsections (h)
14 (k) or (l) of this section, or who has been suspended without
15 pay pursuant to G.S. 115C-325(a)(4), shall have the right to
16 appeal from the decision of the board to the superior court
17 for the judicial district in which the teacher is employed.
18 This appeal shall be filed within a period of 30 days after
19 notification of the decision of the board. The cost of
20 preparing the transcript shall be borne by the board. A
21 teacher who has been demoted or dismissed and who has
22 not requested a hearing before the board of education
23 pursuant to this section shall not be entitled to judicial
24 review of the board's action."

25 Sec. 15. The second paragraph of G.S. 115C-325(o) is
26 rewritten to read:

27 "A probationary teacher whose contract will not be renewed for
28 the next school year shall be notified of this fact by June 1."

1 Sec. 16. G.S. 115C-306 is repealed.

2 Sec. 17. This act is effective upon ratification.

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APPENDIX E

APPENDIX E

PROPOSED AMENDMENT TO G. S. 115C-325

A Bill To Be Entitled An Act To Amend G.S. 115C-325
Pertaining To The Employment of Career Teachers.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-325(c) is amended by adding a new subsection (5) as follows:

- (5) Contract of a Career Teacher. The contract period for a teacher who has obtained career status shall be for a term of five years. During the term of the career contract a career teacher may not be dismissed, demoted or employed on a part-time basis except for the reasons set forth in G.S. 115C-325(e)(1). At least 45 days before the end of the term of a career teacher's contract, the performance of the career teacher shall be reviewed by the board or by a personnel review committee named by the board, taking into account the annual evaluations contained in the personnel file of the career teacher. Subsequent to this review, the board shall vote either to renew the career teacher's contract for an additional five-year term or not to renew the contract.

The board may refuse to renew the contract of the career teacher for the same reasons and by the same procedures as are required for the nonrenewal of the contract of a probationary teacher pursuant to G.S. 115C-325(m)(2). A career teacher whose contract will not be renewed for an additional contract period shall be notified of the fact not less than 30 days before the end of his/her current employment period.

Teachers who have achieved career status prior to July 1, 1983, shall be subject to the provisions of this section and shall receive a five-year contract for a term beginning July 1, 1983.

Section 2. G.S.115C-325(d) (2) is amended to read as follows:

- (2) A career teacher who has performed the duties of a principal or supervisor in a particular position in the school system for three consecutive years and who is reemployed in the same position for a fourth year shall be given a career contract as an administrator pursuant to the provisions of G.S. 115C-325(c) (5) and shall not be transferred from that position to a lower paying administrative position or to a lower paying nonadministrative position during the term of said contract except for the reasons given in G.S.115C-325(e) and in accordance with the procedure for the dismissal of a career teacher set out in this section.

Section 3. G.S. 115C-325(e) (1) is amended by adding the phrase "during the term of his/her contract" between the word "basis" and the word "except" to read as follows:

- (1) No career teacher shall be dismissed or demoted or employed on a part-time basis during the term of his/her contract except for:

Section 4. This act shall be effective on July 1, 1983.

